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PATENT
Attorney Docket No. 214967

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Brown

Application No. 10/047,817

Art Unit: 1617

Examiner: S. A. Jiang

Filed: January 15, 2002

For: PIGMENTED COSMETIC
COMPOSITION AND METHODS
RELATED THERETO

SECOND DECLARATION UNDER 37 C.F.R. § 1.132 OF RICHARD A. BROWN

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Richard A. Brown, hereby declare the following:

1. I am currently the Director of Research and Development of Cosmetic Laboratories of America and have held this title for ten years. I have been employed with Cosmetic Laboratories of America for the past twenty years. I have over 35 years of experience in the area of personal care products, with extensive experience in research and development of skin care and hair care products, in particular.

2. I received a Bachelor's Degree in Chemistry in 1970 and a Master's Degree in Business Administration in 1977, both from the University of California at Los Angeles.

3. I am the named inventor in the present application. In some embodiments, the present invention relates to a pigmented cosmetic composition comprising a water-in-oil emulsion, in which the emulsion comprises (a) an oil phase; (b) an aqueous phase; (c) a pigment; (d) from about 3% to about 6% by weight of an emulsifier comprising a cetyl dimethicone copolyol; and (e) a separation inhibitor comprising a silicone elastomer, wherein the composition is stable for at least three months. In another embodiment, the present invention relates to a particulate sunscreen composition comprising a water-in-oil emulsion comprising (a) an oil phase; (b) an aqueous phase; (c) a particulate sun screening agent; (d)

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from about 3% to about 6% by weight of an emulsifier comprising a cetyl dimethicone copolyol; and (e) a separation inhibitor comprising a silicone elastomer, wherein the silicone elastomer comprises a dimethicone cross-polymer, wherein the composition is stable for at least three months at about 50 °C.

4. Experiments were conducted in accordance with Example 1 of the present application. The experiments involved preparing and evaluating the stability of two samples (Samples C and D). Sample C contained cetyl dimethicone copolyol in about 3% by weight, and Sample D contained cetyl dimethicone copolyol in about 6% by weight. Each sample was prepared as a water-in-oil emulsion in accordance with Example 1 of the present application. The only component to vary from Example 1 was the amount of cetyl dimethicone copolyol.

5. Both samples were prepared and observed for stability at 50 °C. Both Samples C and D remained stable at 50 °C for at least 3 months after preparation.

6. The results demonstrate that only a composition of the present invention (particularly, a composition comprising about 3-6 wt% cetyl dimethicone copolyol) was stable for at least three months. The increase in stability exhibited by a composition of the present invention is surprisingly greater than compositions comprising an amount less than or greater than about 3-6 wt% of an emulsifier comprising a cetyl dimethicone copolyol.

7. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent issued thereon.

May 27th 2005
Date

Richard A. Brown
Richard A. Brown